



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC NO.: HOfs14100763
HUD NO.: 05-14-1639-8

JAMAL L. SMITH, in his official capacity as
EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,
v.

THE FIELDS APARTMENTS
INLAND AMERICAN COMMUNITIES
Respondent,

NOTICE OF FINDING and
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following finding with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On September 30, 2014, [REDACTED] ("Complainants") filed a Complaint with the Commission against The Fields Apartments and Inland American Communities ("Respondents") alleging unlawful discriminatory housing practices on the basis of familial status in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*), the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) and the Federal Fair Housing Act (42 U.S.C. § 3601 *et seq.*) The Commission, therefore, has jurisdiction over the parties and the subject matter of this Complaint.

A Commission investigation has been completed. All parties have been interviewed and have had an opportunity to submit evidence. Based on the final investigative report and a full review of the relevant files and records, the Executive Director now finds the following:

There are several issues pending before the Commission. The first issue before the Commission is whether Respondent refused to renew Complainants' lease because of their familial status. In order to prevail, Complainants must show that: 1) they are members of a protected class; 2) they were qualified, ready, willing, and able to continue their tenancy with Respondent; 3) they made a bona fide offer to continue their tenancy with Respondent; 4) Respondent refused Complainants' offer; and 5) Respondent treated similarly-situated tenants without children more favorably under similar circumstances. It is evident that Complainants are members of a



protected class because they reside with two children under the age of 18; further, it is clear that they are qualified, ready, willing, and able to continue their tenancy with Respondent. Moreover, it is evident that Complainants made a bona fide offer to continue residing with Respondent; however, Respondent refused Complainants' offer and treated similarly-situated tenants without children more favorably under similar circumstances.

By way of background, Complainants signed a lease with Respondent on or about June 14, 2013 with a termination date of June 30, 2014. At all times relevant to the lease, Complainants and two minor children lived in a two-bedroom-unit. On or about October 28 2013, Respondent revised its rental policy in several ways. Specifically, the policy imposed the following occupancy requirements: "maximum occupancy per apartment: one bedroom—1; two bedroom—2; three bedroom—3; four bedroom—4." The policy further provided that "an additional minor child being twelve (12) months of age or less (newborn) who occupies the same bedroom with the child's parent, guardian, legal custodian, or person applying for that status during the term of the lease, will be permitted in addition to the number of occupants defined in the paragraphs above." Additionally, while the written revision provided that rental applications were to be completed by each occupant over the age of 18, Respondent admits that it required each occupant "over the age of one" to have a lease agreement under the new policy. Shortly thereafter, on or about November 4, 2013, Respondent sent Complainants an email informing them of the aforementioned policy. As a result of the changes, Mr. Taniyama visited Respondent's leasing office in late December 2013 in an attempt to renew his lease; however, Respondent told him that he could not renew his lease because of the new policy. While Mr. Taniyama explained that Respondent was aware that he had two children at the time he first entered into the lease, Respondent would not allow him to renew, but stated that she would ask her manager about the situation.

Evidence shows that Respondent never responded to [REDACTED] request, and in early January 2014, he returned to Respondent's leasing office and asked to renew his lease. However, Respondent informed that he could not renew his lease for a two-bedroom due to having "two children" although they were both under the age of five. While Complainants' monthly rent for the two-bedroom unit with a washer and dryer was \$1055 per month, a three-bedroom unit would cost approximately \$1500 per month, a difference in excess of \$445.00 per month. Ultimately, Complainants vacated their apartment in May 2014 and obtained alternative housing.

Despite Respondent's assertions, there is sufficient evidence to believe that Respondent violated the fair housing laws as alleged. Complainants and their family lived in a two-bedroom unit without issue until Respondent modified its occupancy policy. Simply stated, it is clear that Respondent refused to renew Complainants' lease for a two-bedroom unit simply because of the number of people in the residence, including Complainants' two children under the age of 5; as such and based upon the aforementioned, reasonable cause exists to believe the fair housing laws were violated as alleged.

Similarly, the second issue before the Commission is whether Respondent subjected Complainant and other families with children to discriminatory terms and conditions because of their familial status. This correlates to the third and forth issues before the Commission: whether Respondent subjected Complainant to discriminatory statements and whether Respondent subjected Complainant to unlawful steering. Simply stated, it is apparent that Respondent subjected Complainants to less favorably terms, discriminatory statements, and unlawful steering because of their familial status. As mentioned above, Respondent's "Statement of Rental Policy" imposing a strict one person per bedroom occupancy requirement with exceptions only for children 1) aged newborn through 12 months and 2) who occupied the same bedroom as their parent or legal guardian has a disproportionately adverse impact on Complainants and families with children generally. As a general rule, factors such as the size of the bedrooms and the overall unit, the age of the children, the unit configuration, and other criteria must be taken into effect before imposing occupancy standards. In this instance, it is unreasonable to assert that two children under the age of five and two adults cannot live in a two-bedroom unit. Ironically, Respondent steered Complainants to a three-bedroom unit, which, according to their own policy, would be in contravention of its one person per bedroom rule. Moreover, Respondent's policy requiring all occupants over the age of one to have separate lease agreements is unreasonable and unfairly excludes families with children. Notably, Respondent has admitted that several families with children have moved after the imposition of their new occupancy requirements. It is important to note that although Respondent seems to imply that the residence in question is a "student community," such a designation is not exempt from the Fair Housing Act or applicable laws. As such and based upon the aforementioned, reasonable cause exists to believe that violations of the laws occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondents, Complainants, or any other aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondents, and Complainants in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, the Respondent shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. Daisuke Taniyama, Yoke Taniyama, and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing. If at any time following service of this charge Respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondent must provide a copy of

this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

November 19, 2014

Date

Jamal L. Smith
Executive Director
Indiana Civil Rights Commission